

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

Revised 05/01 WDNV

SHARON MCNAMEE  
304 GIBSON STREET  
CANANDAIGUA, NY 14424

Name(s) of Plaintiff or Plaintiffs

Jury Trial Demanded: Yes ☐ No ☐

-vs-  
STARBUCKS COFFEE COMPANY  
2401 UTAH AVENUE SOUTH  
SEATTLE, WA 98134

Name of Defendant or Defendants

DISCRIMINATION COMPLAINT

-CV-

10 CV 6509

This action is brought for discrimination in employment pursuant to *(check only those that apply)*:

☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub.L.No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621-634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub.L.No. 99-592, the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you **must first file charges** with the Equal Employment Opportunity Commission.

☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117 (amended by the Civil Rights Act of 1991, Pub.L.No. 102-166).

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you **must first obtain a right to sue letter** from the Equal Employment Opportunity Commission.

**JURISDICTION** is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub.L.No. 102-166, and any related claims under New York law.

1. My address is: 304 GIBSON STREET  
CANANDAIGUA, NY 14424

My telephone number is: 585 474 7437

2. The name of the employer(s), labor organization, employment agency, apprenticeship committee, state or local government agency who I believe discriminated against me is/are as follows:

Name: STARBUCKS COFFEE COMPANY  
 Number of employees: 500 OR MORE  
 Address: 2401 UTAH AVENUE SOUTH  
SEATTLE, WA 98134

3. (If different than the above), the name and/or the address of the defendant with whom I sought employment, was employed by, received my paycheck from or whom I believed also controlled the terms and conditions under which I were paid or worked. (For example, you worked for a subsidiary of a larger company and that larger company set personnel policies and issued you your paycheck).

Name: SAME AS ABOVE  
 Address: \_\_\_\_\_

4. I was first employed by the defendant on (date): 12/27/04

5. As nearly as possible, the date when the first alleged discriminatory act occurred is: \_\_\_\_\_

6. As nearly as possible, the date(s) when subsequent acts of discrimination occurred (if any did): AUGUST 27, 2010

7. I believe that the defendant(s)

- a. \_\_\_\_\_ Are still committing these acts against me.  
 b. ☒ Are not still committing these acts against me.

(Complete this next item **only** if you checked "b" above) The last discriminatory act against me occurred on (date) AUGUST 27, 2010 TERMINATED

8. (Complete this section **only** if you filed a complaint with the New York State Division of Human Rights)

The date when I filed a complaint with the New York State Division of Human Rights is

(estimate the date, if necessary)

I filed that complaint in (identify the city and state): \_\_\_\_\_

The Complaint Number was: \_\_\_\_\_

9. The New York State Human Rights Commission did \_\_\_\_\_ /did not \_\_\_\_\_ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
10. The date (if necessary, estimate the date as accurately as possible) I filed charges with the Equal Employment Opportunity Commission (EEOC) regarding defendant's alleged discriminatory conduct is: OCTOBER 22, 2009
11. The Equal Employment Opportunity Commission did ☒ /did not \_\_\_\_\_ issue a decision. (NOTE: If it **did** issue a decision, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
12. The Equal Employment Opportunity Commission issued the attached Notice of Right to Sue letter which I received on: JUNE 10, 2010. (NOTE: If it **did** issue a Right to Sue letter, you **must attach** one copy of the decision to **each** copy of the complaint; failure to do so will delay the initiation of your case.)
13. I am complaining in this action of the following types of actions by the defendants:
  - a. \_\_\_\_\_ Failure to provide me with reasonable accommodations to the application process
  - b. \_\_\_\_\_ Failure to employ me
  - c. ☒ Termination of my employment
  - d. \_\_\_\_\_ Failure to promote me
  - e. \_\_\_\_\_ Failure to provide me with reasonable accommodations so I can perform the essential functions of my job
  - f. \_\_\_\_\_ Harassment on the basis of my sex
  - g. \_\_\_\_\_ Harassment on the basis of unequal terms and conditions of my employment
  - h. ☒ Retaliation because I complained about discrimination or harassment directed toward me
  - i. \_\_\_\_\_ Retaliation because I complained about discrimination or harassment directed toward others
  - j. \_\_\_\_\_ Other actions (please describe) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

14. Defendant's conduct is discriminatory with respect to which of the following (*check all that apply*):

a. ☐ Race

f. ☐ Sexual Harassment

b. ☐ Color

g. ☒ Age

c. ☒ Sex

JULY 24, 1964 Date of birth

d. ☐ Religion

h. ☐ Disability

Are you incorrectly perceived as being disabled by your employer?

e. ☐ National Origin

☐ yes ☐ no

15. I believe that I was ☒ /was not ☐ intentionally discriminated against by the defendant(s).

16. I believe that the defendant(s) is/are ☐ is not/are not ☒ still committing these acts against me. (If you answer is that the acts are not still being committed, state when: ON 8/27/10 I WAS TERMINATED and why the defendant(s) stopped committing these acts against you: ON 8/27/10 I WAS TERMINATED)

17. A copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of my claim. (NOTE: You **must** attach a copy of the **original complaint** you filed with the Equal Employment Opportunity Commission and a copy of the **Equal Employment Opportunity Commission affidavit** to this complaint; failure to do so will delay initiation of your case.)

18. The Equal Employment Opportunity Commission (*check one*):

☐ **has not** issued a Right to sue letter

☒ **has** issued a Right to sue letter, which I received on JUNE 10, 2010

19. State here as briefly as possible the *facts* of your case. Describe how each defendant is involved, including *dates* and *places*. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (*Use as much space as you need. Attach extra sheets if necessary.*)

SEE ATTACHED



United States District Court  
Western District of New York

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Sharon McNamee  
(Plaintiff)

v.

Starbucks Coffee Company  
(Defendant)

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Discrimination Complaint

Page 5 continued

19. State the facts of your case....

On Friday, August 27, 2010 Starbucks terminated my employment with the company. The reason stated: "Starbucks can no longer reasonable accommodate your continued absence from work." Starbucks continuously approved my leave of absence requests from September 11, 2009 until June 25, 2010. It wasn't until I was finally approved to return to work on a part-time basis (20 hours/wk) with no other special accommodations that Starbucks chose to terminate me.

Starbucks currently has a store in Chili, NY that is operating without an in-house manager. Rizzo stands to gain financially by allowing that store to operate without a manager. Starbucks could have easily and reasonably accommodated my return to work at this location because I operated a store for a year only 3 miles from this location; I already have existing relationships with the employees of this store and the customers.

Starbucks made accommodations in the fall 2009 through winter 2010 for store manager Michelle Galinski (under 40) who needed special accommodations while she was pregnant.

Starbucks made accommodations in the summer of 2010 for store manager Michael Redmond (under 40) who needed special accommodations because of a back injury.



**BENEFITS & LEAVE OF ABSENCE**

P.O. Box 34067  
Mail Stop S-PSS  
Seattle, WA 98124-1067

**TERMINATION LETTER**

August 26, 2010

Sharon McNamee  
304 Gibson Street  
Canandaigua, NY 14424

Dear Sharon,

Starbucks has reviewed your request for a Disability Leave of Absence to begin on 6/26/2010 and end in September of 2010. After careful review of your medical condition as well as suggested accommodations, your request for leave been denied.

As you know, you have been on a continuous leave of absence which began on 11/02/2009, and was most recently approved to end on 6/25/2010. As of this date, you were on leave for over seven months. Unfortunately, Starbucks can no longer reasonably accommodate your continued absence from work.

Your manager has been notified that your request for leave has been denied. Time you have missed beyond 6/25/2010 is considered an unapproved absence. An unapproved absence may result in corrective action, up to and including termination from employment.

This decision does not impact your eligibility to receive Long-Term Disability (LTD) benefits. Please continue to work directly with Unum to maintain your eligibility.

For questions about how this decision impacts your employment with Starbucks, please contact the Partner Resources Support Center at 866-504-7368, option 5. The PRSC is open Monday-Friday, 5 AM to 5 PM, Pacific Standard Time.

For questions regarding this denial, please contact me directly at 206-318-4680. (Toll-free: 888-796-5282, extension 84680).

Regards,

A handwritten signature in black ink, appearing to read "B. Strang".

Byron Strang  
benefits specialist

cc: Starbucks Leave Administration  
Joyce Varino, partner resources manager

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Sharon Mc Namee**  
**304 Gibson Street**  
**Canandaigua, NY 14424**

From: **Buffalo Local Office**  
**6 Fountain Plaza**  
**Suite 350**  
**Buffalo, NY 14202**

☐

On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No

**525-2010-00045**

**David Ging,**  
**Investigator**

**(716) 551-3035**

**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

**John E. Thompson,**  
**Local Office Director**

**JUN 08 2010**

(Date Mailed)

Enclosures(s)

cc:

**Kirsten Daniels, Esq.**  
**Attorney**  
**LANE POWELL**  
**1420 Fifth Avenue, Suite 4100**  
**Seattle, WA 98101**

**Kimberly A. Glennon**  
**Law Offices**  
**P.O. Box 20032**  
**Rochester, NY 14602**



EEOC Form 5 (5/01)

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA  
☒ EEOC

525-2010-00045

**New York State Division Of Human Rights**

and EEOC

Name (Indicate Mr., Ms., Mrs.)

**Ms. Sharon Mc Namee**

Home Phone (Incl. Area Code)

**(585) 474-7437**

Date of Birth

**07-24-1964**

Street Address

City, State and ZIP Code

**304 Gibson Street, Canandaigua, NY 14424**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**STARBUCKS COFFEE COMPANY**

No. Employees, Members

**500 or More**

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

**2401 Utah Ave S 800, Seattle, WA 98134**

Name

**STARBUCKS COFFEE COMPANY**

No. Employees, Members

**500 or More**

Phone No. (Include Area Code)

**(617) 796-3300**

Street Address

City, State and ZIP Code

**1 Miracle Mile Drive, Rochester, NY 14623**

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☐ RETALIATION ☒ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**04/26/09****08-21-2009**☐

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I am a 45 year old female. I began working for Respondent in 2004. My latest position is Store Manager. In or about April of 2009 the person who was my district manager at the time thwarted my attempt to bid on a posted position in Rhode Island. More recently, my current district manager has refused to facilitate a transfer and he has placed me on a performance plan. I have noticed that most of the managers in my region who suffer adverse job actions are female or over 40.

I believe that Respondent has discriminated against me because of my age and gender in willful violation of Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967.

**RECEIVED****OCT 22 2009**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

**E.E.O.C. BULO**

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

**Oct 22, 2009**

Date

**Sharon McNamee**

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)